IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.1072 (MS) of 2004

Executive Engineer,
Electricity Distribution Division,
Rudrapur, Udham Singh Nagar. .....Petitioner.

Versus

1. S.P. Singh and Brothers, Rice Mill Kichha, District Udham Singh Nagar.
2. District Consumer Redressal Forum Kumaun Region, Haldwani, District-Nainital. .....Respondents.

Dated: 02.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Gopal Narian, Advocate for the petitioner and Standing Counsel for the respondents no.2.

By the present writ, petition, the petitioner has prayed for a writ certiorari quashing the order dated 17th June, 2004 passed by the respondent no.2.

Briefly stated, respondent no.2 has challenged the tariff challenging the bills sent by the petitioner. The District Consumer Redressal Forum, Kumaon Region, Haldwani, District Nainital has passed the order to the following effect:-

''दिनाँक 1.3.04 से 30.4.04 तक का जो बिल विभाग ने भेजा है वह मिनिमम चार्ज के अनुसार दिया है जो गलत है। उक्त अवधि में वादी ने 900 यूनिट विद्युत उपभोग किया है अतः रेट शैडयूल के अनुसार एनर्जी चार्जेज रू0 2205.00 होते हैं यह अभिलेखों के अनुसार बिलेबल डिमान्ड क्या है इसका कोई साक्ष्य अपलब्ध नहीं है विद्युत विभाग वादी के बिल को संशोधित कर पुनः भेजेंगे जिसमें मिनिमम चार्ज नहीं होगा और रेट शैडयूल के

अनुसार यूनिट कन्ज्यूम्ड X 2-45+ 45.00 X billable demand के अनुसार संशोधित बिल प्राप्त होने के 1 सप्ताह के अन्दर वादी इस बिल का भुगतान विद्युत विभाग को करेगा ।''

Section 110 of the Electricity Act, 2003 provides that there shall be an establishment of the appellate Tribunal for the hearing of the appeals against the order of the adjudicating officer or of appropriate commission under this Act. Section 110 of the Electricity Act, 2003 is quoted below:-

"110.Establishemnt of Appellate Tribunal.- *The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Appellate Tribunal for Electricity to hear appeals against the order of the adjudication officer or the Appropriate Commissioner under this Act.*

A perusal of the aforesaid provision shows that the order having been passed by the District Consumer Redressal Forum, the appeal lies before the appellate Tribunal.

The petitioner, therefore, having alternative remedy of filing the appeal, the writ petition is not maintainable on account of alternative remedy. However, it will be open for the petitioner to file the appeal and delay if any will not come in filing the appeal before the appellate Authority.

The petitioner is also permitted to file application for staying the proceedings. In case the stay application is filed, the same may be considered in accordance with law.

However, for a period of one month, order passed by the respondent no.2 shall remain in abeyance.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

02.08.2006
Rathour